

Remarks

This amendment is being filed in reply to the Office Action of January 9, 2006 a reply to which was due without payment of additional fee or Request for Extension of Time by April 9, 2006. By this amendment Applicants have currently presented twenty six claims. The Examiner has the authorization to charge any additional fees associated with the cost of the filing of these papers from Deposit Account No. 12-1295.

The Examiner has rejected Claims 13-16, 18 and 19 under 35 U.S.C. § 112, first paragraph, because the incorporation of silicon is determined to be an essential ingredient and should be incorporated into the independent claim. Applicant respectfully points out to the Examiner that independent Claim 13 does recite "silicone material" in the claim as described in the specification in the paragraph bridging pages 24 and 25. Thus, in view of this recitation Applicant's respectfully request withdrawal of the rejection under 35 U.S.C. § 112.

The Examiner has also rejected Claim 19 under U.S.C. § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention. The term "softening agent" lacks antecedent basis. In view of this rejection Applicants have amended Claim 19 to recite "a softening agent". Applicant's respectfully request withdrawal of the rejection under 35 U.S.C. § 112.

The Examiner has rejected Claims 13-16, 18 and 19 under 35 U.S.C. § 102(e) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over Dungworth et al., U.S. Patent No. 6,329,057 (Dungworth et al.). In view of this rejection Applicants have amended Claim 13 and have added new Claims 20-36 which further define the claimed invention.

The Examiner points to the example at the top of column 11, in which the exemplified formulation is combined with 1.5% by

weight of the polymer of Example 5 loaded with the perfume of Example 6.

In contrast to the claimed invention Dungworth et al. discloses use of materials having free hydroxyl groups or pendant cationic groups to aid in the deposition of fragranced solid particles from consumer products.

A claim is anticipated if a single prior art reference discloses each and every element of the claimed invention, either expressly or inherently. *Minn. Mining and Mfg. Co. v. Johnson and Johnson Orthopaedics, Inc.*, 976 F.2d 1559 (Fed. Cir. 1992). Additionally, the single reference must describe and enable the claimed invention sufficiently to have a person of ordinary skill in the field of the invention in possession of it. *In re Spada*, 911 F.2d 705 (Fed. Cir. 1990).

Applicants have amended Claim 13 to recite, *inter alia*,

A wash-off product comprising: a fragrance material; said fragrance material encapsulated by a polymer selected from the group consisting of vinyl polymer; an acrylate polymer, melamine-formaldehyde; urea formaldehyde and mixtures thereof to provide a polymer encapsulated fragrance; the polymer encapsulated fragrance is further coated by a cationic polymer selected from the group consisting of polysaccharides, cationically modified starch, cationically modified guar, polysiloxanes, poly diallyl dimethyl ammonium halides, copolymers of poly diallyl dimethyl ammonium chloride and vinyl pyrrolidone, acrylamides, imidazoles, imidazolinium halides, imidazolium halides, poly vinyl amine, copolymers of poly vinyl amine and N-vinyl formamide and mixtures thereof; a silicone material and wherein the fragrance is a liquid thereby providing a liquid core to the polymer encapsulated fragrance.

In contrast to the presently claimed invention, Dungworth et al. discloses particles containing an organic polymer core, see col. 2 lines 30-31. Also, Dungworth et al. states for this invention it is preferred to use polymer particles which are solid-although they may be porous as well as solid-rather than particles in the form of hollow capsules. See column 5 lines 19-21. The claims as currently presented claim a liquid core to the encapsulated fragrance and are not anticipated by Dungworth et al. Additionally, Dungworth et al. affords no teaching, suggestion or motivation to provide a liquid core to the polymer encapsulated fragrance. Dungworth et al. actually teaches away from the use of capsules that are not solid or porous as recited above and disclosed at col. 5 lines 19-21.

Furthermore, Dungworth et al. discloses particles with the organic polymer core, characterized in that the particles have at their exterior, a different polymer or polymers which provide(s) hydroxyl functionality and cationic functionality. In contrast to the present invention, the cationic functionality may be provided by pendant cationic groups that have been derived from cationic vinyl addition monomer units bonded to the organic water insoluble polymer or cationic monomer units present in the hydroxyl containing polymer. Furthermore, Dungworth et al. does not disclose the use of silicone as currently recited in independent Claim 13.

Thus, the claims as currently presented are not anticipated by Dungworth et al. Moreover, Dungworth et al. provides no teaching, suggestion or motivation of the encapsulating polymers presently claimed or the cationic polymers presently claimed.

Thus, in view of the amendments to Claim 13 and newly added Claims 20-38 and the arguments above Claims 13-16, 18 and 19 are not anticipated under 35 U.S.C. § 102(e) or obvious under 35

U.S.C. § 103(a) by Dungworth et al. and withdrawal of the rejection is respectfully requested.

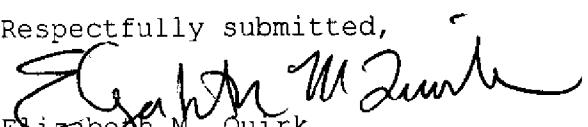
Furthermore, no new matter has been introduced by this amendment and the new claims are not anticipated or obvious in view of Dungworth et al.

The Examiner has also rejected Claim 17 under 35 U.S.C. § 103(a). It is the Examiner's position that Dungworth et al. reference does not disclose the addition of silicone, however the Examiner states it would have been obvious at the time to do so, because applicants admit at p. 25 of the specification that addition and formulation of silicones is well known in the surfactant art. Applicants have amended independent Claim 13 in which Claim 17 is dependent upon and thus incorporates all of the limitations of Claim 13. Therefore, dependent Claim 17 further limits the level of silicone present in the claimed invention and is not obvious for the same reasons as set forth above.

Reconsideration and withdrawal of the rejection of Claim 17 under 35 U.S.C. § 103(a) is respectfully requested.

Applicants respectfully submit that the claims as presented clearly define the present invention and are in full compliance with all statutory provisions and the reasons for rejection of record are no longer applicable. There is no new matter introduced by this amendment. Therefore, it is believed that the present application is now in condition for allowance and favorable consideration of the elected claims is respectfully requested.

Respectfully submitted,


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